

27. A beverage-holding device, comprising:

a glove having a palm region and a back region generally opposed to the palm portion;

a beverage holder adapted to receive a beverage container, wherein the holder includes a base and a sleeve extending from the base to define a cavity into which the container may be at least partially received; and

a hinge structure pivotally coupling the holder to the glove, wherein the hinge structure is bilaterally positionable to enable selective positioning of the holder between a first position, in which the palm region of the glove is generally between the sleeve and the back region, and a second position, in which the back region of the glove is generally between the sleeve and the palm region, wherein the holder is adapted to be at least substantially collapsed when in the second position.

REMARKS

Reconsideration of the Office action dated May 10, 1999 is requested in view of the foregoing amendments and the following remarks. Prior to entry of this Amendment, claims 1-22 were pending, with claims 1-7, 11-20 and 22 rejected and claims 8-10 and 21 being objected to for depending from a rejected base claim but otherwise being allowable. By this amendment, claims 1, 14, 20 and 22 are amended, new claim 23 is added, and claims 8-10 and 21 are rewritten in independent form as claims 24-27 to put those claims in a condition for allowance.

Applicant thanks the Examiner for her time and comments during a telephone interview with Applicant's attorney, David D'Ascenzo, on August 9, 1999. In the interview, the claim rejections over Dzierson were discussed, and it was agreed that Dzierson fails to disclose the fixed fastener recited in the claims. It was further discussed that even if it is possible to manipulate the beverage holder of Dzierson to extend at least partially along the back surface of the glove, Dzierson fails to disclose or suggest any structure for selectively retaining the receptacle in such a position. It was further discussed that should the beverage receptacle of Dzierson be rotated about snap 32 so that it could pivot without striking the hook and loop fasteners 26, it would destroy the operability of the device, since any beverage container in the receptacle would be oriented downward, thereby spilling its contents.

Claims 1-7, 11-20 and 22 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,414,692 to Dzierson. Applicant traverses the rejection and submits that Dzierson does not disclose or suggest the structure recited in the claims. However, claim 1 has been amended to more particularly distinguish Dzierson by reciting that the device includes an attachment mechanism for selectively retaining the beverage holder in the stowed position. An example of such an attachment mechanism is shown in Fig. 8 at 46 and 50. This structure distinguishes the device disclosed in Dzierson, which is only positioned on the palm region of the glove. Since Dzierson does not disclose or suggest positioning the beverage holder on the back portion of the glove, it follows that Dzierson does

not disclose or suggest an attachment mechanism for selectively retaining the beverage holder in a stowed position on the back portion of the glove. Instead, Dzierson discloses a removable beverage holder that is removed from the glove and separately stored when not in use.

For the above reasons, Applicant submits that claim 1 patentably distinguishes Dzierson, and therefore should be allowable. Claims 8-10 depend from claim 1, but have already been indicated to be allowable. Claims 2-7 and 11-13 depend from claim 1 and therefore should be allowed when claim 1 is allowed.

Claim 2 recites that the beverage receptacle includes an elastomeric collar adapted to stretch or contract to conform to the shape of a beverage container received within the cavity. The Examiner's position is that Dzierson discloses such a collar in Fig. 1 at 18. According to the Examiner, Dzierson's beverage holder is formed from a flexible material and therefore it inherently takes the shape of any container received therein. Applicant traverses the rejection because even if Dzierson's beverage receptacle is flexible, it does not disclose or suggest an elastomeric collar that stretches or contracts to conform to the shape of a beverage container, as recited in claim 2 and shown for example in Fig. 3 of the application. Instead, Dzierson teaches away from such a collar by including a slit 34 (shown in Fig. 1 of Dzierson) with a closure mechanism that enables the user to selectively resize the beverage receptacle by adjusting the relative positions of the hook and loop portions 36 and 38 forming the closure mechanism. Therefore, instead of having an elastic collar that will stretch or contract to conform to the

shape of a beverage container, such as shown in Fig. 3 of the application, Dzierson's device requires the user to place the container within the receptacle, and then manually resize the receptable by releasing and recoupling portions 36 and 38. For this additional reason, claim 2 is believed to patentably distinguish Dzierson.

Claim 5 recites that the fastening mechanism is a fixed fastening mechanism. Applicant submits that claim 5 should also be allowable because Dzierson does not disclose or suggest a fixed fastening mechanism, within the scope of the present application. As discussed in the interview and on page 6 of the specification, Applicant has defined a "fixed fastening mechanism" to be a fastening mechanism that does not permit that receptacle to be removed from the glove without destruction of at least a portion of the glove, receptacle or fastening mechanism. On the other hand, a "selectively releasable" fastening mechanism is described to be a fastening mechanism that enables the receptacle to be selectively removed from the glove and reattached thereto without destruction of any portion of the glove, receptacle or fastening mechanism. Dzierson discloses only a snap 32 and hook and loop fasteners 26, which both are selectively releasable fastening mechanisms because they permit the removal and replacement of the receptacle without destroying any portion of the glove, receptacle or fastening mechanism. Because Dzierson fails to disclose or suggest the used of a fixed fastening mechanism, claim 5 patentably distinguishes Dzierson and therefore should be allowable.

Claim 12 recites that the fastening mechanism pivotally couples the receptacle to the glove. The Examiner's position is that it would be possible to rotate the beverage receptacle of Dzierson approximately 180° from the position shown in Fig. 2 so that the hook and loop fasteners 24 and 26 do not align with each other yet the portions forming snap 32 are still coupled together. Essentially this would result in the beverage holder being inverted from the position shown in Fig. 2 of Dzierson. The Examiner's position is that in this orientation, snap 32 would pivotally couple the beverage holder to the glove. Applicant traverses the rejection, because such a manipulation of the structure of Dzierson, contrary to the disclosure and suggestion of Dzierson, would destroy the operability of the device. Since the beverage receptacles support beverage containers filled with liquids for drinking, typically having open tops, inverting the orientation of the holder would result in the contents of these containers being spilled.

Claim 14 should be allowable for the reasons presented above with respect to claim 5, because claim 14 also requires a fixed fastening mechanism, which is neither disclosed nor suggested by Dzierson. Claims 15-19 depend from claim 14, and therefore should be allowable when claim 14 is allowed.

Claim 20 should be allowable for the reasons presented above with respect to claim 1. In addition, neither snap 32 nor hook and loop fastener 26, 28 of Dzierson provide a bilaterally positionable hinge, as recited in claim 20, which enables the selective positioning of the holder between a first position, in which the palm region of the glove is generally between the sleeve and the back region,

and a second position, in which the back region of the glove is generally between the sleeve and the palm region. Instead, Dzierson only discloses fasteners adapted to retain the beverage holder in contact with the palm region of the glove. For this additional reason, claim 20 should be allowable. Claim 21 has already been indicated to be allowable. Claim 22 depends from claim 20 and should be allowed when claim 20 is allowed.

With the entry of the above amendments and for the reasons stated, Applicant submits that all presently pending claims patentably distinguish the cited references. Therefore, Applicant requests that the Examiner's rejections be withdrawn and a Notice of Allowance issued. Should there be any questions or remaining issues, the Examiner is invited to contact the undersigned at the number listed below.

Respectfully submitted,

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